IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REV. APPLICATION NO.386 OF 2006

Dr.Pankajkumar Champaklal
Gandhi .. Applicant

Versus

State of Maharashtra & Ors. .. Respondents

Mr.D.U.Mirajkar & G.D.Jadhav for applicant
Mr.R.Y.Mirza, A.P.P. for State
Mr.S.K.Punder for respondent No.2.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 30th November 2006.

P.C.

. The only submission raised by Mr.Mishra

while arguing this revision is that the complainant had filed C.C.Nos. 273 and 274 of 2004, which allege offences punishable under section 138 of the N.I. Act. These complaints were heard and tried together and the same ended in conviction and sentence of the applicant before this Court.

2. Applicant, aggrieved by this conviction and sentence, preferred appeals which have been rejected by the Additional Sessions Judge. Applicant has been taken into custody pursuant to the dismissal of his appeals. However, his contention is that applicant has been sentenced to suffer R.I. for four months and to pay a fine of Rs.20,000/- and in default of payment R.I. for one month. In each of this complaint a sum of Rs.20,000/- has been deposited. However, the applicant is undergoing sentence. His apprehension is that two complaints having been taken up and tried together, the effect of the

order of conviction and sentence would be that the applicant would have to undergo imprisonment for four months each in both complaints, as there is no direction that the said sentences should run concurrently.

3. In my view, without entering into any larger controversy and considering that the learned Additional Sessions Judge has recorded that there are pending disputes in civil courts, interest of justice would be sub-served, if the sentences are directed to run concurrently with regard to both complaints. This direction is issued considering the peculiar facts and circumstances and the observations of the lower appellate court in paras 17 and 20 of its judgement.

4. This fact is also recorded in the trial court’s order. There is a decree passed in favour of the parties to the complaint. In such

circumstances and when the original complainant has expired, the above direction and order would meet the ends of justice. Revision application dismissed save and except for the modification in the sentence.

5. In the light of dismissal of revision application so also for the reasons assigned while rejecting the same, Application No.3770 of 2006 for enhancement does not survive and is accordingly disposed of. Needless to state that the amount of Rs.20,000/- deposited in the lower appellate court in respect of both complaints shall be permitted to be withdrawn by respondent Nos. 1 and 2.

(S.C.Dharmadhikari, J)